S.B.Civil Second Appeal No.304/2006.

Ghisu Lal and others.
vs.
LRs of Ghisu Lal and others.

Date : 16.3.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr. R Arora, for the appellants.

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Heard.

Two courts below concurrent held that the suit property was sold by the defendant no.5/respondent no.5 Sewalal for legal necessity. Plaintiffs no.1 to 3, who are minors, challenged the sale deed through their natural guardian – mother.

Learned counsel for the appellants vehemently submitted that even for agriculture land, devolution of interest in the property is as per personal law and for that purpose, Sections 41 and 42 in Rajasthan Tenancy Act have been framed. In view of this, the plaintiffs being sons of Sewalal and grandsons of Chunnilal, with the death of Chunnilal also acquired title. Therefore also, the plaintiffs' father had no right to alienate whole of the property. For this, learned counsel for

the appellants relied upon the judgment of this Court delivered in the case of Khema and others vs. Shri Bhagwan and others reported in RLW 1994(2) 14 wherein it has been held that plaintiff/respondent no.1 Bhagwan in that case became co-sharer the moment he was born in the family of defendant-respondent no.3 Uda, therefore, the sahre of Bhagwan cannot be sold by Uda.

The above is the proposition of law and it is well settled. The question is whether the Karta of the family can sold the property of joint Hindu family for legal necessity and for that also, the law is well settled.

So far as status of seller Sewalal as karta cannot be denied in view of the fact that in evidence, it has come on record that even after sale deed dated 5.7.1973, the plaintiffs, their mother and the vendor all were living in the same house. The eldest member of joint Hindu family automatically becomes khatedar of the family.

Two courts below when concurrently held that the suit property was sold for legal necessity, I do not find any substantial question of law involved in this appeal.

Consequently, this second appeal, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya